

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE COMMISSIONER OF COMMERCE

In the Matter of Scott Douglas Olson,
Individually, and the Unlicensed Mortgage
Originator Activity of Integrity Mortgage, LLC

**FINDINGS OF FACT,
CONCLUSIONS AND
RECOMMENDATION**

The above-entitled matter came on for hearing before Administrative Law Judge Barbara L. Neilson on September 16, 2010. The OAH record closed at the conclusion of the hearing.

Michael J. Tostengard, Assistant Attorney General, appeared on behalf of the Minnesota Department of Commerce (Department).

Scott Douglas Olson appeared without counsel on his own behalf and on behalf of Integrity Mortgage, LLC (Respondents).

STATEMENT OF ISSUES

Did the Respondents engage in unlicensed mortgage origination activities in violation of Minn. Stat. § 58.04, subds. 1 and 3? If so, should they be subject to discipline?

Based upon all of the files, records and proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. Respondent Scott Douglas Olson, doing business as Integrity Mortgage, was licensed as a mortgage originator under License No. 20239086. The license expired on October 30, 2007, because Mr. Olson failed to renew it.¹

2. Mr. Olson started working in the mortgage business in 1996. He was originally employed by Outstate Mortgage, which later changed its name to Lifetime Mortgage. In 2000, Mr. Olson started his own business, Olson Mortgage Consulting. In late 2000, Mr. Olson formed Integrity Mortgage as a sole proprietorship. In 2002, Integrity Mortgage became a Limited Liability Company (LLC). Prior to October 2007, Respondents engaged in loan modifications (particularly aimed at those with "upside down" mortgages), debt settlements, and credit card challenges. In October 2007, the Respondents decided to discontinue operating as a mortgage originator due to statutory

¹ Exhibit ("Ex.") 1; Testimony ("Test.") of Matthew Boyer.

changes requiring payment of higher licensing fees and filing of a bond, but continued in the other areas in which it had previously operated and also acted as a “1099 sales agent” for United First Financial. By the date of the hearing, Integrity Mortgage was no longer doing business.²

3. Integrity Mortgage was an independent contractor for Liberty Mortgage Solutions, Inc., from October 2007 to July 2009. Michael Kojonen was the mortgage broker for Liberty Mortgage Solutions during that time. Mr. Kojonen closed the brokerage down at the end of July of 2009, and Mr. Olson found other work.³ Mr. Olson was employed by Key Mortgage Corporation from September 9, 2009, to February 12, 2010.⁴

4. After October 2007, Mr. Olson did not originate any mortgages through Integrity Mortgage. He only originated loans through Liberty Mortgage Solutions and Key Mortgage. He informed clients that the mortgages were being issued through those companies, and did not send out any paperwork or email messages referring to Integrity Mortgage.⁵

5. Matthew Boyer, Senior Investigator for the Department, was assigned to investigate concerns that Respondents were engaging in unlicensed mortgage originator activity.⁶ As of February 12, 2010, Mr. Boyer was able to access a website (www.integmortgage.com) that identified Mr. Olson as Owner and President of Integrity Mortgage and noted that, among other things, Integrity Mortgage offered residential mortgages and loan modifications. The website did not indicate that mortgages were being offered by any company other than Integrity Mortgage.⁷ After the Department notified Mr. Olson of the existence of this website, Mr. Olson had the website taken down.⁸

6. As of March 1, 2010, Mr. Olson was identified on the “LinkedIn” on-line social networking business directory as the President of Integrity Mortgage, LLC. The site indicated that Mr. Olson had been President of Integrity Mortgage from “August 2000 – Present (9 years 8 months)” and further stated that “[w]e offer mortgages but specialize in principle reduction programs that get people out of negative equity with their homes. Those who are upside down with their mortgage can now reverse that and get a new mortgage that is 60% to 95% below their home’s current value.” No companies other than Integrity Mortgage were mentioned on the LinkedIn site.⁹ Prior to

² Test. of Scott Olson.

³ Exs. 6, 7; Test. of S. Olson.

⁴ Exs. 4, 5; Test. of S. Olson.

⁵ Test. of S. Olson

⁶ Test. of M. Boyer.

⁷ Ex. 2; Test. of M. Boyer.

⁸ Test. of S. Olson.

⁹ Ex. 3; Test. of M. Boyer.

the hearing, Mr. Olson was unaware that this information was included on the LinkedIn site.¹⁰

7. As of September 14, 2010, a website still existed on the internet for Integrity Mortgage, LLC, and Scott Olson. The site advertised mortgage origination services.¹¹ This was an older website which was created in approximately 2002 by a different vendor than the Integrity Mortgage website referenced in Finding No. 5. Mr. Olson did not realize until the hearing that this website was still in existence, and intends to direct the vendor to remove this website.¹²

8. On June 9, 2010, the Department served the Respondents by mail with the Notice of and Order for Hearing, Order for Prehearing Conference, and Statement of Charges. During the prehearing conference, the hearing date was set for September 16, 2010. The hearing proceeded on September 16, 2010, as scheduled.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Administrative Law Judge and the Commissioner of Commerce are authorized to consider the charges against Respondents under Minn. Stat. §§ 45.027, subd. 7, 58.12 and 14.50 (2008).

2. Respondents received due, proper and timely notice of the charges against them, and of the time and place of the hearing. This matter is, therefore, properly before the Commissioner and the Administrative Law Judge.

3. The Department has complied with all relevant procedural requirements.

4. The Department bears the burden of proving by a preponderance of the evidence that the Respondents committed the statutory violations it alleges.¹³

5. Minn. Stat. § 58.04, subd. 1 (2008), specifies that “[n]o person shall act as a residential mortgage originator, or make residential mortgage loans without first obtaining a license” from the Department.

6. The Department has not shown by a preponderance of the evidence that Scott Olson doing business as Integrity Mortgage violated Minn. Stat. § 58.04, subd. 1, by acting as a residential mortgage originator or made residential mortgage loans after Mr. Olson’s license lapsed in October 2007. Any mortgage business conducted by the Respondents after October 2007 was done as an employee of or independent contractor for another licensed mortgage originator.

¹⁰ Test. of S. Olson.

¹¹ Test. of M. Boyer.

¹² Test. of S. Olson.

¹³ Minn. Rules 1400.7300, subp. 5.

7. Minn. Stat. § 58.04, subd. 3 (2008), states that “[n]o person required to be licensed under this chapter may, without a license, do business under a name or title or circulate or use advertising or make representations or give information to a person, that indicates or reasonably implies activity within the scope of this chapter.”

8. The Department has shown by a preponderance of the evidence that the Respondents violated Minn. Stat. § 58.04, subd. 3, because advertising that reasonably implied that the Respondents were able to engage in mortgage origination services remained on the internet after Respondents were no longer licensed to engage in such activity.

9. An order by the Commissioner of Commerce imposing appropriate discipline against the Respondents is in the public interest within the meaning of Minn. Stat. § 45.027, subd. 7(a)(1).

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED: that the Commissioner of Commerce impose appropriate discipline against Respondents Scott Douglas Olson and Integrity Mortgage, LLC.

Date: September 28, 2010.

s/Barbara L. Neilson

BARBARA L. NEILSON
Administrative Law Judge

Reported: Digitally recorded; not transcribed.

NOTICE

This Report is a recommendation, not a final decision. The Commissioner of Commerce will make the final decision after reviewing the record and may adopt, reject or modify these Findings of Fact, Conclusions, and Recommendation. Under Minn. Stat. § 14.61, the Commissioner’s decision shall not be made until this Report has been available to the parties to the proceeding for at least ten (10) days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact Emmanuel Munson-Regala, Deputy Commissioner, Minnesota Department of Commerce, 85 Seventh Place East, Suite 500, St. Paul, MN 55101, telephone no. 651-296-4051, to ascertain the procedure for filing exceptions or presenting argument to the Commissioner.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a (2004). The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the deadline

for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.

MEMORANDUM

The mortgage originator license of Scott Olson doing business as Integrity Mortgage lapsed in October 2007 after Mr. Olson decided not to renew it. Based upon undisputed evidence offered by Respondents, any residential mortgage loans that were made after October 2007 were made in Mr. Olson's capacity as an independent contractor or employee of Key Mortgage or Liberty Mortgage Solutions, and no clients were misled about the source of their mortgages. The Department acknowledged at the hearing that it is permissible under Chapter 58 of the Minnesota Statutes for an unlicensed individual to function as an employee or independent contractor for a license mortgage originator.

Unfortunately, after the license lapsed, the Respondents failed to insure that information that had been placed on the internet in the past about Mr. Olson and Integrity Mortgage was deleted or modified to clarify that mortgages would be issued through Key Mortgage or Liberty Mortgage Solutions. As a result, advertising that reasonably implied that Mr. Olson and Integrity Mortgage themselves were authorized to originate mortgages remained on the internet after the Respondents no longer had a license to engage in such activity. This violated Minn. Stat. § 58.04, subd. 3 (2008). It appears that the failure to take this information off the internet was an unintentional oversight on their part. Upon first learning of the Department's concerns in February 2010, Mr. Olson took immediate action to have the www.integmortgage.com site taken down. He testified at the hearing that he will also take the necessary steps to eliminate the information on the "LinkedIn" and older Integrity Mortgage websites. Under the circumstances, imposition of a reprimand or modest penalty is recommended.

B. L. N.